

# Redesignation to Attainment for the 1-Hour Ozone Standard

Door, Kenosha, Manitowoc,  
Milwaukee, Ozaukee, Racine,  
Washington, Waukesha Counties

# Redesignation to Attainment

- Why are we proposing redesignation?
  - Met Standards
  - Important Milestone
  - Economic Development

# Redesignation to Attainment

- What is the process?
  - State Redesignation
    - Develop Necessary Documentation
    - Hold Hearing

# Redesignation to Attainment

## – Federal Process

- State Develops Documents Matching Redesignation Requirements Elements
- State Holds Hearing
- State Submits SIP Revision to EPA
- EPA Evaluates Proposal
- EPA Proposes Approval in Federal Register
- EPA Publishes Final Notice in Register

# Redesignation Schedule Monitoring

End of Ozone Season    October 15, 2001

QA Monitoring Data    November 15, 2001

Submit Data to AIRS    December 15, 2001

# Redesignation Schedule Plan Development

Develop Inventories      February 2002

Develop Maintenance      March 2002  
Plans

Develop Contingency      March 2002  
Measures

# Redesignation Schedule

## Legal Process

State Hearing April 2002

Submit Redesignation April 2002

EPA's Proposed  
Approval April 2002

EPA's Final Approval July 2002

# Redesignation to Attainment

- Requirements for Redesignation
  - Attainment of the NAAQS
  - All Section 110 and Part D Requirements Met
  - Fully Approved SIP
  - Improvement in Air Quality Due to Implementation of Permanent and Enforceable Measures
  - Fully Approved Maintenance Plan



# Redesignation to Attainment

- Changes for DNR
  - Monitoring - None
  - Permitting
    - Nonattainment Area NSR Does Not Apply
    - PSD Does

# Redesignation to Attainment

- Changes for Businesses
  - Definition of Major Source
  - Nonattainment Area NSR Does Not Apply
  - PSD Applies

# Redesignation to Attainment

- Next Steps
  - Coordinate with Indiana, Illinois and EPA
  - Involve Stakeholders
  - Develop Plans
  - Legal Steps

# 8-Hour Ozone NAAQS Litigation

# 8-Hour Ozone NAAQS Litigation

- Supreme Court Agreed to Hear Case
  - Both Sides Appealed Aspects of DC Circuit Court Decision
- Oral Arguments - November 7, 2000
- Court Decision Released - 2/27/01
- Validated both the 8-Hour Ozone and the Fine Particulate Standard

## 8-Hour Ozone NAAQS Litigation

- Questions Presented to Supreme Court
  - Does EPA's Interpretation of the Clean Air Act Lead to an Unconstitutional Delegation of Authority?
  - Did DC Court of Appeals Exceed Its Jurisdiction in Reviewing Preamble Statements?
  - Does Clean Air Act Restrict EPA's Ability to Enforce New NAAQS?
  - Should EPA Consider Other Factors (Cost) in

## What did the Supreme Court Do?

- EPA standard setting was NOT an Un-constitutional Delegation of Authority
- Court of Appeals had jurisdiction to review how standards were implemented
- EPA's 8-Hour Implementation Plan is Not Lawful
- EPA can NOT consider cost in setting the NAAQS

# Supreme Court Remands

- Implementation plan remanded to EPA
- Remanded to the lower court
  - Issues not addressed by lower court and not appealed
    - UVB - Protection from skin cancer
    - Arbitrary and capricious
    - Ozone standard should be vacated, because EPA is implementing it. (Ozone Flex Policy)
    - 24-Hour PM<sub>2.5</sub> standard is too high.



## What will happen now?

- EPA must create a new implementation scheme for the 8- hour ozone standard that reasonable matches the structure of subpart 2
- EPA will have a lot of work to do
- EPA's new actions could stimulate more lawsuits
- Nonattainment area designations?

# What will happen now?

- Schedule
  - July 2001 - Petitioners initial briefs on issues to be litigated in DC Court of Appeals
  - November 2001 - Final briefs
  - No schedule for oral arguments
  - Decision in spring 2002
  - UVB issue proposed in October - Finalized next summer

# Redesignation to Attainment

- Importance of Voluntary Programs
  - Improve Air Quality
  - Maintain the 1-Hour Standard
  - Avoid Designation under the 8-Hour Standard or Minimize Classification

# Redesignation to Attainment

- Elements of a Maintenance Plan
  - Emissions Inventories
    - Year Designated Nonattainment
    - Year of Attainment
    - 10 Years Beyond Attainment
  - Demonstration of Attainment/Maintenance for 10 Years After Redesignation
  - Commitment to Maintain Monitoring Network

# Redesignation to Attainment

- Elements of a Maintenance Plan  
(Continued)
  - Verification of Continued Attainment
    - Legal Authority to Implement Measures
    - Tracking of Attainment
  - Contingency Plan
  - Commitment for a Revised Maintenance Plan  
in 8-Years

# Redesignation to Attainment

- Contingency Plan
  - Measures Clearly Identified
  - Triggers (Process for Invoking Measures)
  - Issues
    - Geography
    - Timing

# Redesignation to Attainment

- Contingency Measures (Continued)
  - Need to Be Enforceable and Permanent
  - Examples
    - Mobile - Speed Control on Freeway
    - Area - Adopt California AIM
    - Point - NO<sub>x</sub> Control on Medium Size Boilers
    - Voluntary Measures